

REMARKS

In the Office Action mailed October 25, 2004, Examiner rejected claims 1 and 3 as being anticipated by the St-Pierre et al. reference and, stating that to the degree that it could be argued that the doors 76, 80 in St-Pierre are not a pair of clamshell doors, offered an alternative rejection rejecting claims 1-3 and 6-8 as being unpatentable over St-Pierre et al. in view of the Hirshman or Mancha references.

Applicant has now amended claim 1 to include the limitations of claim 2, and in particular to add the phrase "wherein said clamshell doors open oppositely so as to pivot away from each other about opposite perimeter edges of the top of said housing". Claim 2 has been cancelled.

With respect to the rejection of claim 1 as being anticipated by St-Pierre et al., Examiner is correct in observing that it is arguable that St-Pierre et al. do not teach clamshell doors but rather (from column 5 lines 45-49 of St-Pierre et al.): "the saw guards (76) comprise corresponding lift supports (78) for accessing easily the saw blades (32). Upper access panels (80) with corresponding lift supports (82), are also provided for maintenance and cleaning", Figure 2 illustrating saw guards 76 and access panels 80 as being each pivotally mounted towards the center of the apparatus and opening upwardly and towards each other rather than in a clamshell fashion as taught in the present application. That is, the clamshell doors in the present application pivot upwardly and oppositely so as to pivot away from each other.

As clearly taught in the present application, it is advantageous for the clamshell doors to open oppositely so as to pivot away from each other to thereby completely open up access from the top of the lumber trimmer. Once the clamshell doors are open according to the present invention, a workman is free to walk along, and may sit or otherwise obtain easy access to the saws, ladders, pivots, bearings, drive belts, and motors. In the arrangement of St-Pierre, a workman must, apparently, reach in over the edge of the machine so as to lean down into the saw compartment and underneath the enclosure extending between saw guards 76 and access panels 80. It also appears from the illustrated St-Pierre device, that the various components which may require maintenance and adjustment as listed above, are situated in the St-Pierre et al. device in

an inaccessible position located underneath the enclosed portion of the compartment, ~~that is~~, underneath and between the hinges for the saw guards and access panels. Consequently, it would appear that St-Pierre et al. in fact teach away from the use of clamshell doors as claimed in claim 1 as originally filed, and thereby also teach away from the use of clamshell doors which open oppositely so as to pivot away from each other as set out in amended claim 1.

Keep in mind, absent some teaching or suggestion supporting the combination of the claimed elements, that the Examiner cannot establish obviousness by combining the teachings of the prior art, such as the teachings of St-Pierre et al. with those of Hirshman or Mancha, to produce the claimed invention (In re Fine, 837 F.2d at 1075, 5 USPQ2d at 1598 (Federal Circuit 1988)). Furthermore, Examiner is asked to keep in mind that the teaching or suggestion of the claim combination of elements of the invention and the reasonable expectation of success of such combination must both be found in the prior art (In re Vaeck, 947 F2d488, 20 USPQ2d1438 (Federal Circuit 1991)). Thus, it is not sufficient to merely point to the hinged container, including garbage can, lids of Hirshman as shown, in one of the disclosed embodiments, the lids opening upwardly and oppositely when Hirshman also promotes that (page 1 lines 52-56) "a single cover 19 may be employed, as shown in Figure 3, in which case is hinged at 21. As shown in Figure 4, two half covers 22 and 23 hinged at 24 might also be employed.", which are shown to open upwardly and inwardly. Thus to follow the teaching of Hirshman, lumber trimmer doors might as taught in St-Pierre et al. be employed which pivot in the manner of St-Pierre et al. that is, upwardly and inwardly towards each other about hinges disposed over the center of the lumber trimmer. For the reasons given above with respect to St-Pierre et al., this is dis-advantageous. Consequently, to follow the teaching of Hirshman would not be to cure the disadvantages of the St-Pierre et al. design and thus absent from Hirshman is a teaching or suggestion supporting the combination of the claimed elements in amended claim 1 over those provided in the St-Pierre et al. reference. It is only with the benefit of impermissible hindsight that one design of cover over another would be selected or for that matter, that the teaching of Hirshman would be combined with the teaching St-Pierre et al. to arrive at the claimed invention with any reasonable expectation of success of the claimed combination.

Similarly with respect to the Mancha disclosure, the lids on a battery box are taught (on page 1 in lines 58-60), to be guided outwardly and downwardly into substantially

parallel relation with the side walls of the box. The lids, rather than opening as clamshell doors, that is, oppositely so as to pivot away from each other, are taught as being guided on pairs of rigid links C and D and (page 1, lines 80-85) "are so proportioned and arranged that they will cause the lids to follow such paths that they will clear the upper edges of the side walls of the box when said lids are moved into and out of their closed position". As with the teaching of Hirshman, a teaching or suggestion supporting the combination of clamshell doors on a housing containing an array of drop saws is absent in Mancha, and so consequently, combining the disclosure of Mancha with the St-Pierre et al. reference is only with the benefit of hindsight given applicant's disclosure of the present invention.

In the Office Action, Examiner also rejected claims 4, 5, and 15-17 as being indefinite, pointing out that, regarding claim 4, "said perimeter edges" lack antecedent basis and, regarding claim 15, that "said beam web" lacks antecedent basis. Claim 4 depends from claim 3 which depends from claim 1, and so reference in claim 4 to "said perimeter edges" now has a proper antecedent basis in amended claim 1. The objection to claim 5 is also thus addressed. Claim 8 is amended to depend from claim 4 so as to provide proper antecedent basis for "said beam". Claim 15 is amended to include "a beam web of a beam mounted across the top of said housing" so as to address Examiner's objection. The objections to claims 16 and 17 are thus also addressed.

The remaining dependent claims 3-17 are, it is submitted, patentable for at least the reason that they depend directly or indirectly from an independent claim which patentably distinguishes over the prior art.

In the Drawings

Revised drawings are submitted for Examiner's consideration, and in particular revised Figures 7 and 11 wherein in Figure 7, reference numeral 14b is corrected, and in Figure 11, the lead line for reference numeral 14b is corrected.


REQUEST FOR EXTENSION OF TIME UNDER 37 CFR, SECTION 1.136

Applicant hereby requests a one month extension of time to respond to the Office Action to and through February 25, 2005.

Examiner is respectfully requested to now pass this application to allowance.

Respectfully submitted,
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